THE NEW ENGLAND COUNCIL

November 3, 2026

Submitted via http://www.regulations.gov
Docket No. IRS-2026-1189
IRS REG-119986-25

Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044.

To whom it may concern,

I write on behalf of the New England Council to express our significant concerns regarding the proposed rule, "Racial Nondiscrimination in Private Schools." Under the proposed rule, a private school would not qualify for federal tax-exempt status under section 501(c)(3) if it "adopts, maintains, or enforces a policy or practice that discriminates on the basis of race, color, or national or ethnic origin." The rule would apply across admissions, educational policies, scholarships and loans, athletics, and any other school-administered or school-supported program. Treasury and the IRS estimate that the proposal may affect as many as 18,000 private educational institutions, including tax-exempt private primary and secondary schools, colleges, universities, professional schools, and trade schools.

The New England Council is a non-partisan alliance of more than 600 businesses, academic and health institutions, and public and private organizations throughout New England formed to promote economic growth and a high quality of life in the New England region. As the nation's oldest regional business association, we count among our members a wide array of private institutions colleges and universities, who maintain 501(c)(3) status.

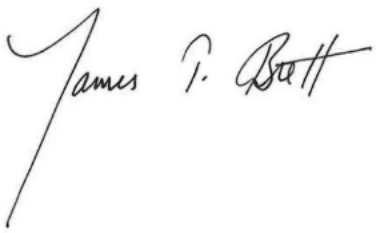
Threatening the tax-exempt status of private educational institutions based on their support for policies or programs designed to address racial discrimination raises serious concerns regarding freedom of speech, association, religion, and the ability of charitable organizations to pursue their lawful missions. Such a policy could have consequences extending well beyond the institutions directly targeted, undermining the independence of nonprofit organizations and their ability to serve the public in accordance with their charitable purposes and organizational values.

The proposed rule's broad application to any "school-supported" program is particularly concerning. Without clear definitions or meaningful limitations, the rule could affect a wide range of charitable organizations, including nonprofits that partner with educational institutions, advertise educational opportunities, provide scholarships, or support programs addressing racial disparities in education. This uncertainty could expose organizations to significant compliance risks and create a chilling effect, discouraging lawful charitable activities even where those activities are consistent with applicable law and the organizations' tax-exempt purposes.

The potential consequences extend throughout the charitable sector. Organizations may be deterred from entering into partnerships, providing educational assistance, or supporting initiatives intended to expand educational access and address documented disparities for fear of jeopardizing their tax-exempt status. Such uncertainty could restrict the ability of nonprofits to respond to community needs and diminish the contributions of charitable institutions to educational opportunity and the public good.

We appreciate your careful consideration of these serious concerns as you proceed with the rulemaking process. Please contact Mariah Healy, Director of Federal Affairs, at mhealy@newenglandcouncil.com with any questions.

Sincerely,



James T. Brett

President and CEO

The New England Council
98 North Washington Street, Suite 303 · Boston, Massachusetts 02114 · (617) 723-4009
1411 K Street, NW, Suite 700 · Washington, DC 20005 · (202) 547-0048
www.newenglandcouncil.com